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COMPARATIVE TABLE OF PROPOSALS RELATED DIRECTLY TO LIVING RESOURCES
Submitted by the United States of America

Notes

1. This comparative table is limited to those proposals that relate directly to living resources. Its purpose is to serve as an aid and is supplementary to documents submitted to the Sea-Bed Committee and referred to the Conference by the General Assembly.
2. The table does not deal with the continental shelf and sea-bed resources.
3. Articles have been grouped into nine broad categories in an effort to make comparative study and review easier, without prejudice to the order of analysis or the unity of different proposals. The headings are found in the index on page 2.
4. The various proposals are presented in the English alphabetical order of the sponsoring delegations.
5. An index of sponsors and co-sponsors of the various proposals is contained on page 3.

74-04800

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1/ All the documents are contained in Official Records of the General Assembly, Twenty-eighth Session, Supplement No.21 (A/9021, Vol.III), except documents A/AC.138/SC.II/L.6, L.9, L.11 and L.12 which are contained in Official Records of the General Assembly, Twenty-seventh session, Supplement No.21 (A/8721) and Conference Room Papers Nos.21 and 22/Add.2 which are contained in Official Records of the General Assembly, Twenty-eighth session, Supplement No.21 (A/9021, Vol.IV).

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1. NATURE AND EXTENT OF COASTAL STATE JURISDICTION

SC.II/L.39

Afghanistan, Austria, Belgium, Bolivia, Nepal and Singapore:
draft articles on resource jurisdiction of coastal States
beyond the territorial sea

Article I

1. Coastal States shall have the right to establish, adjacent to the territorial sea, a ... zone which may not extend beyond ... nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. Coastal States shall have, subject to the provisions of articles II and III, jurisdiction over the ... zone and the right to explore and exploit all living and non-living resources therein.

SC.II/L.40 and Corr.1-3

Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia,
Madagascar, Mauritius, Senegal, Sierra Leone, Somalia,
Sudan, Tunisia and United Republic of Tanzania: draft
articles on exclusive economic zone

Article I

All States have a right to determine the limits of their jurisdiction over the seas adjacent to their coasts beyond a territorial sea of ... miles in accordance with the criteria which take into account their own geographical, geological, biological, ecological, economic and national security factors.

Article II

In accordance with the foregoing article, all States have the right to establish an economic zone beyond the territorial sea for the benefit of their peoples and their respective economies in which they shall have sovereignty over the renewable and non-renewable natural resources for the purpose of exploration and exploitation. Within the zone they shall have exclusive jurisdiction for the purpose of control, regulation and exploitation of both living and non-living resources of the zone and their preservation, and for the purpose of prevention and control of pollution.

The rights exercised over the economic zone shall be exclusive and no other State shall explore and exploit the resources therein without obtaining permission from the coastal State on such terms as may be laid down in conformity with the laws and regulations of the coastal State.

The coastal State shall exercise jurisdiction over its economic zone and third States or their nationals shall bear responsibility for damage resulting from their activities within the zone.

Article III

The limits of the economic zone shall be fixed in nautical miles in accordance with criteria in each region, which take into consideration the resources of the region and the rights and interests of developing land-locked, near land-locked, shelf-locked States and States with narrow shelves and without prejudice to limits adopted by any State within the region. The economic zone shall not in any case exceed 200 nautical miles, measured from the baselines for determining territorial sea.

Article VI

The exercise of sovereignty over the resources and jurisdiction over the zone shall encompass all the economic resources of the area, living and non-living, either on the water surface or within the water column, or on the soil or subsoil of the sea-bed and ocean floor below.

Article VII

Without prejudice to the general jurisdictional competence conferred upon the coastal State by article II above, the State may establish special regulation within its economic zone for:

- (a) Exclusive exploration and exploitation of renewable resources;
- (b) Protection and conservation of the renewable resources;
- (c) Control, prevention and elimination of pollution of the marine environment;
- (d) Scientific research.

SC.11/L.11 and Corr.1

Argentine draft articles

The sovereignty of a coastal State extends to a belt of sea adjacent to its coast, described as the territorial sea, and to the air space, bed and subsoil that rest on it.

It is for each State to fix the breadth of its territorial sea up to a maximum range of 12 nautical miles measured from the applicable baselines.

A coastal State has sovereign rights over an area of sea adjacent to its territorial sea up to a distance of 200 nautical miles measured from the baseline from which the breadth of the territorial sea is measured or up to a greater distance coincident with the epicontinental sea.

For the purposes of this and the succeeding articles, the term "epicontinental" means the column of water covering the sea-bed and subsoil which are situated at an average depth of 200 metres.

The scope of the above-mentioned rights is laid down in the succeeding articles.

It is for each coastal State to fix the breadth of the area adjacent to its territorial sea up to the maximum distance prescribed in article 4, in accordance with criteria which take into account the regional geographical, zoological, ecological, economic and social factors involved and interests relating to the preservation of the marine environment.

A coastal State has sovereign rights over the renewable and non-renewable natural resources, living and non-living, which are to be found in the said area.

SC.11/L.11

Working paper submitted by Australia and New Zealand

1. The coastal State shall have exclusive jurisdiction, in accordance with the principles elaborated herein, over the living resources of the sea in an adequately wide zone of the high seas adjacent to its territorial sea.

(Comment: It will be necessary to recognise a specific limit to the fishery zone in which the coastal State has jurisdiction. The basic concept would be to establish coastal State responsibility and control over the coastal species. These are the non-sedentary, free-swimming species that inhabit nutrient bearing areas adjacent to the coast).

SC.II/L.36

Working paper submitted by the delegations of Australia and Norway containing certain basic principles on an economic zone and on delimitation

(a) The coastal State has the right to establish, beyond its territorial sea, in accordance with these principles, an (economic zone - patrimonial sea) in which it shall have sovereign rights over the natural resources for the primary benefit of its people and its economy.

(b) The natural resources of the (economic zone - patrimonial sea) comprise the renewable and non-renewable natural resources of the waters, the sea-bed and the subsoil thereof.

(c) The coastal State has the right to determine the outer limit of the (economic zone - patrimonial sea) up to a maximum distance of 200 nautical miles from the applicable baselines for measuring the territorial sea. However, the coastal State has the right to retain, where the natural prolongation of its land mass extends beyond the (economic zone - patrimonial sea), the sovereign rights with respect to that area of the sea-bed and the subsoil thereof which it had under international law before the entry into force of this convention: such rights to not extend beyond the outer edge of the continental margin.

SC.II/L.25

Brazil: draft articles containing basic provisions on the question of the maximum breadth of the territorial sea and other modalities or combinations of legal régimes of coastal State sovereignty, jurisdiction or specialized competences

Article A

1. Each State has the right to establish the breadth of its territory within reasonable limits, taking into account geographical, social, economic, ecological and national security factors.

2. The breadth of the territorial sea shall in no case exceed 200 miles measured from the baselines determined in accordance with article 1 of the present Convention.

3. States whose coasts do not face the open ocean shall enter into consultations with other States of the region with a view to determining an agreed maximum breadth of the territorial sea appropriate to the particular characteristics of the region.

Article B

Within the limitations determined by article A, each State has the right to establish other modalities or combinations of legal régimes of sovereignty, jurisdiction or specialized competences in the marine area adjacent to its

SC.II/L.18 and Corr.1

Canada, India, Kenya, Madagascar, Senegal and Sri Lanka:
draft articles on fisheries

Article 1

A coastal State has a right to establish an exclusive fishery zone beyond its territorial sea. The coastal State shall exercise sovereign rights for the purpose of exploration, exploitation, conservation and management of the living resources, including fisheries, in this zone, and shall adopt from time to time such measures as it may deem necessary and appropriate. The living resources may be plant or animal, and may be located on the water surface, within the water column, on the sea-bed or in the subsoil thereof.

Article 2

The exclusive fishery zone may not extend beyond ... nautical miles* from the baseline from which the breadth of the territorial sea is measured.

* The figure for the nautical miles in this article will correspond to the figure mentioned for the concept of the exclusive economic zone.

Article 8

A coastal State has a special interest in the maintenance of the productivity of the living resources of the area of the sea adjacent to the exclusive fishery zone, and may take appropriate measures to protect this interest. A coastal State shall enjoy preferential rights to the resources of this area and may reserve for its nationals a portion of the allowable catch of these resources corresponding to its harvesting capacity.

SC.II/L.34

Working paper submitted by the Chinese delegation: sea area
within the limits of national jurisdiction

2. Exclusive economic zone or exclusive fishery zone

(1) A coastal State may reasonably define an exclusive economic zone (hereinafter referred to as the economic zone) beyond and adjacent to its territorial sea in accordance with its geographical and geological conditions, state of its natural resources and its needs of national economic development.

The outer limit of the economic zone may not, in maximum, exceed 200 nautical miles measured from the baseline of the territorial sea.

(2) All natural resources within the economic zone of a coastal State, including living and non-living resources of the whole water column, sea-bed and its subsoil, are owned by the coastal State.

A coastal State exercises exclusive jurisdiction over its economic zone for the purpose of protecting, using, exploring and exploiting the resources as described in the preceding paragraph.

SC.II/L.27 and Corr.1-2

Draft articles for inclusion in a convention on the law of the sea: working paper submitted by the delegations of Ecuador, Panama and Peru.

Article 1

1. The sovereignty of the coastal State and, consequently, the exercise of its jurisdiction, shall extend to the sea adjacent to its coast up to a limit not exceeding a distance of 200 nautical miles measured from the appropriate baselines.
2. The aforesaid sovereignty and jurisdiction shall also extend to the air space over the adjacent sea, as well as to its bed and subsoil.

Article 6

The renewable and non-renewable resources of the sea, and of its bed and subsoil, within the limits referred to in article 1 shall be subject to the sovereignty and jurisdiction of the coastal State.

Article 17

The term "international seas" shall denote that part of the sea which is not subject to the sovereignty and jurisdiction of coastal States.

Article 19

The following freedoms shall be exercised on the international seas:

- (1) freedom of navigation;
- (2) freedom of overflight;
- (3) freedom to lay submarine cables and pipelines;
- (4) freedom to emplace artificial islands and other installations permitted under international law, without prejudice to the provisions of article 24;
- (5) freedom of fishing, subject to the conditions laid down in article 20;
- (6) freedom of scientific research, subject to the conditions laid down in article 21.

These freedoms shall be exercised by any State, with due consideration for the interests of other States in the exercise of the same freedom.

... (Complementary provisions)

SC.II/L.54

Ecuador, Panama and Peru: draft articles on fisheries in national and international seas in ocean space

Article 9

Fishing and marine hunting activities in the international seas shall be conducted in conformity with the articles of this Convention and with any agreements that are concluded at the world or regional level.

SC.II/L.45

Working paper submitted by the Chinese delegation: general
principles for the international sea area

1. The international sea area denotes all the sea and ocean space beyond the limits of national jurisdiction. The international sea area and its resources are, in principle, jointly owned by the people of all countries.

6. Fishing in the international sea area shall be properly regulated to prohibit indiscriminate fishing and other violations of rules and regulations for the conservation of fishery resources.

SC.II/L.21

Colombia, Mexico and Venezuela draft
articles of treaty

Patrimonial sea

Article 4

The coastal State has sovereign rights over the renewable and non-renewable resources which are found in the waters, in the sea-bed and in of an area adjacent to the territorial sea called the patrimonial sea.

Article 5

The coastal State has the right to adopt the necessary measures to its sovereignty over the resources and prevent marine pollution of its sea.

Article 11

1. The coastal State shall exercise jurisdiction and supervise exploration and exploitation of the renewable and non-renewable resources in the patrimonial sea and over allied activities.

High seas

Article 16

Freedom of navigation, overflight and the laying of submarine cables and pipelines shall exist in the high seas. Fishing in this zone shall be unrestricted and indiscriminate.

Article 17

The coastal State has a special interest in maintaining the production of the living resources of the sea in an area adjacent to the patrimonial sea.

SC.II/L.55

Jamaica: Draft articles on regional facilities for developing
geographically disadvantaged coastal States

Article 1

1. In any region where there are geographically disadvantaged coastal States, the nationals of such States shall have the right to exploit, on a reciprocal and preferential basis, the renewable resources within maritime zones beyond 12 miles from the coasts of the States of the region for the purpose of fostering the economic development of their fishing industry and satisfying the nutritional needs of the population.

Article 3

Except as provided in Article 4, nothing in articles 1 and 2 shall apply to territories under foreign domination or forming an integral part of metropolitan powers outside the region.

Article 5

For the purpose of the following articles:

(a) "geographically disadvantaged coastal States" means developing States which for geographical, biological or ecological reasons

- (i) derive no substantial advantage from the extension of their maritime jurisdiction; or
- (ii) are adversely affected by the extension of maritime jurisdiction of other States;
- (iii) have short coastlines and cannot extend uniformly their national jurisdiction;

(b) "nationals" include enterprises substantially owned and effectively controlled by nationals.

SC.II/L.12

Proposal for a régime of fisheries on the high seas
submitted by Japan

1.1 The proposed régime applies to fisheries on the high seas in the area beyond the limit of 12 miles from the coast of a State, measured in accordance with the rules of international law (such areas hereinafter shall be referred to as "waters").

1.2 All States have the right for their nationals to engage in fishing on the high seas, subject to the present régime and to their existing treaty obligations.

1.3 The proposed régime shall not affect the rights and obligations of States under existing international agreements relating to specific fisheries on the high seas.

SC.II/L.28

United Nations draft articles on the delimitation of coastal State jurisdiction in ocean space and on the rights and obligations of coastal States in the area under their jurisdiction

Article 2

1. The jurisdiction of a State extends to a belt of ocean space adjacent to its coast, described as national ocean space.
2. This jurisdiction is exercised subject to the provisions of these articles and to other rules of international law.
3. The jurisdiction of a coastal State extends to the air space above national ocean space. b/

b/ This article corresponds, with modifications, to article 1 and article 2 of the Convention on the Territorial Sea and the Contiguous Zone.

Article 1a

1. The jurisdiction of a State may extend to a belt of ocean space adjacent to its coast, the breadth of which is 200 nautical miles measured from baselines drawn in accordance with the provisions of chapter III of this Convention.

SC.II/L.59 and Corr.1

Netherlands: proposal concerning an intermediate zone

Article 1

Limits

The intermediate zone comprises:

(a) In so far as the living resources, with the exception of "highly migratory oceanic fish species", are concerned, the superjacent waters contiguous to the territorial sea (12 miles) up to an outer limit of ... miles;

(b) In so far as the non-living resources are concerned, the sea-bed and subsoil underlying a belt of sea up to 40 miles seaward of the outer limit of the "continental shelf" but not exceeding the distance of ... nautical miles measured from the baselines of the territorial sea.

Article 2

Issuing of licenses

All exploration for, and exploitation of, the living or non-living resources of the intermediate zone shall be licensed by the coastal State, subject to the rules and regulations established by the competent international authorities [global, regional and/or subregional authorities].

* The continental shelf is understood here as the sea-bed and subsoil adjacent to the coast, not exceeding the 200 metres isobath or underlying a belt of sea the breadth of which is 40 nautical miles measured from the baselines of the territorial sea, according to the choice between the two methods of delimitation to be made by the State concerned at the moment of ratification. Such choice shall be final and the method of delimitation shall apply to the whole of the coastline of the State concerned.

SC.II/L.52

Topic: breadth of the territorial sea and boundaries of the exclusive economic zone

Each coastal State shall have the right to establish the breadth of its territorial sea within limits not exceeding 12 nautical miles, measured from applicable baselines determined in accordance with article ... of this Convention.

Each coastal State shall also have the right to establish its exclusive economic zone not exceeding 200 nautical miles, calculated from the baseline used for the determination of the limits of the territorial sea.

SC.II/L.41

Uganda and Zambia: draft articles on the proposed economic zone

SECTION II: ECONOMIC ZONE

Article 1

1. Beyond the uniform limits of the territorial seas of coastal States, there shall be established economic zones, the outer limit of which shall be a line every point of which shall not exceed ... nautical miles measured from the baselines, known as regional or subregional economic zones.

SC.II/L.24

Uruguay: draft treaty articles on the territorial sea

SECTION I. GENERAL

Article 1

1. A coastal State exercises sovereignty over a belt of sea adjacent to its coast and to its internal waters, described as the territorial sea.

2. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

SECTION II. LIMITS OF THE TERRITORIAL SEA

Article 2

1. Every State is entitled to determine the breadth of its territorial sea with limits not exceeding a distance of 200 nautical miles measured from the applicable baselines, subject to the provisions of succeeding paragraphs.

2. In regions with special characteristics such as semi-enclosed or inland seas, where it is impossible for coastal States to determine the maximum breadth of their territorial sea, the breadth of the said areas shall be determined by agreement between the coastal States of the same region.

SC.II/L.9

United States of America - revised
draft fishing article

I. IMMEDIATE AUTHORITY

Authority to regulate the living resources of the high seas shall be determined by their biological characteristics and such authority shall be exercised so as to ensure their conservation, maximum utilization and equitable allocation.

II. COASTAL AND ANADROMOUS LIVING RESOURCES

The coastal State shall regulate and have preferential rights to all coastal living resources off its coast beyond the territorial sea to the limits of their migratory range. The coastal State in whose fresh or estuarine waters anadromous resources (e.g. salmon) spawn shall have authority to regulate and have preferential rights to such resources beyond the territorial sea throughout their migratory range on the high seas (without regard to whether or not they are off the coast of said State).

A. The term "coastal resource" refers to all living resources off the coast of a coastal State except the highly migratory species listed in Annex A, g/ and anadromous resources.

g/ Annex A not attached.

SC.II/L.6

Draft article on fishing (basic provisions and explanatory
note) submitted by the Union of Soviet Socialist Republics

Basic provisions

1. In the areas of the high seas directly adjacent to its territorial sea or fishery zone (not exceeding 12 miles), a developing coastal State may annually reserve to itself such part of the allowable catch of fish as can be taken by vessels navigating under that State's flag.

With the growth of the fishing fleet of the developing coastal State the above-mentioned part of the allowable catch of fish reserved by that State may increase accordingly.

The developing coastal State shall notify the size of the reserved part of the catch to the international fisheries organisation whose competence covers the particular area, and also to States engaged in fishing in the above-mentioned areas.

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2. CONSERVATION

SC.II/L.39

Afghanistan, Austria, Belgium, Bolivia, Nepal and Singapore:
Draft articles on resource jurisdiction of coastal States
beyond the territorial sea

SC.II/L.40 and Corr.1-3

Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia,
Madagascar, Mauritius, Senegal, Sierra Leone, Somalia,
Sudan, Tunisia and United Republic of Tanzania: draft
articles on exclusive economic zone

Article II 6. In exploiting the living resources the States referred to in paragraphs 1 and 3 of this article shall observe the regulations and measures pertaining to management and conservation in the respective ... zones.

SC.II/L.37 and Corr.1

Argentina: draft articles

10. The protection and conservation of renewable resources existing in the area are likewise subject to the regulations of the coastal States concerned and to such agreements as they may conclude on the matter, taking into account, where relevant, co-operation with other States and the recommendations of international technical bodies.

SC.II/L.11

Working paper submitted by Australia and New Zealand

SC.II/L.36

Working paper submitted by the delegations of Australia and Norway containing certain basic principles on an economic zone and on delimitation

II. It shall be the responsibility of the coastal State to provide proper management and utilization of the living resources within its zone of exclusive jurisdiction, including -

- (a) maintenance of the level of stocks which will provide the maximum sustainable yield;
- (b) rational utilization of the resources and the promotion of economic stability coupled with the highest possible food production; and
- (c) where the resource is required for direct human consumption in the coastal state, the highest possible priority to be given to the production of fish for direct human consumption.

(Comment: - carrying out these responsibilities a State would make use of measures as referred to in Principle III below).

K. The coastal State has responsibility to conduct research on the resources within the zone to enable it to fulfill its responsibility to provide proper management and rational utilization of these resources. It shall publish the results of that research within a reasonable period. Other States operating within the zone shall assist in the research programme and shall provide comprehensive catch, effort and biological data at reasonable intervals as required.

SC.II/L.25

Brazil: draft articles containing basic provisions on the question of the maximum breadth of the territorial sea and other modalities or combinations of legal regimes of coastal State sovereignty, jurisdiction or specialized competence.

SC.II/L.38 and Corr.1

Canada, India, Kenya, Madagascar, Senegal and Sri Lanka: draft articles on fisheries

SC.II/L.34

Working paper submitted by the Chinese delegation: sea area within the limits of national jurisdiction

SC.II/L.45

Working paper submitted by the Chinese delegation: general principles for the international sea area

SC.II/L.21

Colombia, Mexico and Venezuela: draft articles of treaty

SC.II/L.54 and Corr.1 and 2

Draft articles for inclusion in a convention on the law of the sea, working paper submitted by the delegations of Ecuador, Panama and Peru

SC.II/L.54

Ecuador, Panama and Peru, draft articles on fisheries in national and international zones in ocean space

Article 20

1. Fishing and hunting in the international seas shall be subject to regulations of a world-wide and regional nature.
2. The aforesaid activities shall be carried out by techniques and methods which do not jeopardise adequate conservation of the renewable resources of the international seas.

Article 21

The coastal State has a special interest in maintaining the productivity of renewable resources in any part of the international seas adjacent to the area subject to its sovereignty and jurisdiction.

1. Fisheries in zones of national sovereignty and jurisdiction

Article A

It shall be the responsibility of the coastal State to prescribe legal provisions relating to the management and exploitation of living resources in maritime zones under its sovereignty and jurisdiction, primarily for the purpose of ensuring the conservation and rational utilization of such resources, the development of its fishing and related industries and the improvement of the nutritional levels of peoples.

Article B

1. In adopting measures to conserve living resources in the maritime zone subject to its sovereignty and jurisdiction, the coastal State shall endeavour to maintain the productivity of species and avoid harmful effects for the survival of resources outside the said zone.

2. The coastal State shall, for the foregoing purposes, promote any necessary co-operation with other States and with competent international organizations.

Article C

1. Regulations adopted to regulate fishing and hunting in the international seas shall ensure the conservation and rational utilization of living resources, the equitable participation of all States in their exploitation, with due regard to the special needs of the developing countries, including those of the land-locked countries.

2. Such regulations shall establish conditions and methods of fishing and hunting which prevent the indiscriminate exploitation of species and avert the danger of their extinction.

SC.II/L.55

Japanese Draft articles on regional facilities for developing geographically disadvantaged coastal States

SC.II/L.12

Proposals for a régime of fisheries on the high seas, submitted by Japan

CONSERVATION OF FISHERY RESOURCES

2.1 Objective of Conservation measures

The objective of conservation measures is to achieve the maximum sustainable yields of fishery resources and thereby to secure and maintain a maximum supply of food and other marine products.

2.2 Obligations to adopt conservation measures

(1) In cases where nationals of one State are exclusively engaged in fishing a particular stock of fish, that State shall adopt, when necessary, appropriate conservation measures.

In cases where nationals of two or more States are engaged in fishing a particular stock of fish, these States shall, at the request of any of them, negotiate and conclude arrangements which will provide for appropriate conservation measures.

These conservation measures shall be consistent with the objective of conservation referred to in para. 2.1 above and shall be adopted having regard to the principles referred to in para. 2.3 below.

(2) In cases where conservation measures have already been adopted by States with respect to a particular stock of fish which is exploited by their nationals, a new-comer State shall adopt its own conservation measures which should be as restrictive as the existing measures until new arrangements are concluded among all the States concerned. If the existing conservation measures include a catch limitation or some other regulations not permitting nationals of the new-comer State to engage in fishing the stock of fish concerned, the States applying the existing conservation measures shall immediately enter into negotiation with the new-comer State for the purpose of concluding new arrangements. Pending such arrangements, nationals of the new-comer State shall not engage in fishing the stock concerned.

(3) States shall make use of the international or regional fishery organizations, as far as possible, to adopt appropriate conservation measures.

2.3 Basic principles relating to conservation measures

(1) Conservation measures must be adopted on the basis of the best scientific evidence available. If the States concerned cannot reach agreement on the assessment of the conditions of the stock to which conservation measures are to be applied, they shall request an appropriate international body or other impartial third party to undertake the assessment. In order to obtain the fairest possible assessment of the stock conditions, the States concerned shall co-operate in the establishment of regional institutions for surveying and research into fishery resources.

(2) No conservation measure shall discriminate in form or fact between fishermen of one State from those of other States.

(3) Conservation measures shall be determined, to the extent possible, on the basis of the allowable catch estimated with respect to the individual stocks of fish. The foregoing principle however shall not preclude conservation measures from being determined on some other bases in cases where, due to lack of sufficient data, an estimate of the allowable catch is not possible with any reasonable degree of accuracy.

(4) No State can be exempted from the obligation to adopt conservation measures on the ground that sufficient scientific findings are lacking.

(5) The conservation measures adopted shall be designed so as to minimize interference with fishing activities relating to stocks of fish, if any, which are not the object of such measures.

(6) Conservation measures and the data on the basis of which such measures are adopted shall be subject to review at appropriate intervals.

2.4 Special status of coastal States in conservation of resources

A coastal State shall be recognised as having special status with respect to the conservation of fishery resources in its adjacent waters. Thus, the coastal State will have the right of participating, on an equal footing, in any survey on fishery resources conducted in its adjacent waters for conservation purposes, whether or not nationals of that coastal State are actually engaged in fishing the particular stocks concerned. Non-coastal States conducting the survey shall, at the request of the coastal State, make available to the coastal State the findings of their surveys and researches concerning such stocks.

Also, except for interim measures (3.1 below), no conservation measure may be adopted with respect to any stock of fish, without the consent of the coastal State whose nationals are engaged in fishing the particular stock concerned (or the majority of the coastal States in cases where there are three or more such coastal States).

A coastal State shall at the same time have the obligation to take, in co-operation with other States, necessary measures with a view to maintaining the productivity of fishery resources in its adjacent waters at a level that will enable an effective and rational utilisation of such resources.

SC.II/L.52

Malta: breadth of the territorial sea and
boundaries of the exclusive economic zone

SC.II/L.41

Uganda and Zambia: draft articles on the proposed economic zone

SC.II/L.24

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SC.II/L.26

Malta: Preliminary draft articles on the delimitation of coastal State
jurisdiction in ocean space and on the rights and obligations of coastal
States in the area under their jurisdiction

Chapter XII: Living resources of national ocean space

Article 81

1. The term "conservation of living resources" means the aggregate of measures rendering possible the optimum sustainable yield from such resources.
2. Conservation programmes shall be formulated with a view to securing in the first place a supply of food for human consumption.

Article 82

1. It shall be the responsibility in the first instance of the coastal State to formulate and implement appropriate and effective programmes of conservation of the living resources of national ocean space. Such conservation programmes shall not discriminate between national and foreign fishermen and shall be based on appropriate and reliable scientific findings.
2. Conservation programmes shall include:
 - (a) measures of biological management which may be necessary or desirable to maintain or increase the stock of living resources of national ocean space;
 - (b) measures of economic management which may be necessary or desirable to maintain fishing effort in national ocean space at levels providing maximum net returns in relation to potential sustained catch;
 - (c) measures of regulation - including, *inter alia*, licensing, closed areas, closed seasons, limitations on size and condition of specific living resources which may be caught and limitations on type of gear - designed to render possible the successful implementation of measures of biological and economic management.
3. Programmes of conservation of the living resources of national ocean space shall be given due publicity by the coastal State and shall be communicated to the international ocean space institutions.

SC.II/L.9

United States of America: revised draft fisheries article

IV. CONSERVATION PRINCIPLES

In order to assure the conservation of living marine resources, the coastal State or appropriate international organization shall apply the following principles:

A. Allowable catch and other conservation measures shall be established which are designed, on the basis of the best evidence available, to maintain or restore the maximum sustainable yield, taking into account relevant environmental and economic factors.

B. For this purpose scientific information, catch and effort statistics, and other relevant data shall be contributed and exchanged on a regular basis.

C. Conservation measures and their implementation shall not discriminate in form or fact against any fishermen. Conservation measures shall remain in force pending the settlement, in accordance with the relevant provisions of this Article, of any disagreement as to their validity.

SC.II/L.60

Zaire: draft articles on fishing

Article 1

Neighbouring developing States shall grant one another preferential treatment in their respective economic zones with regard to the exploitation of living resources. The procedure for the exercise of such rights shall be settled by arrangement between the States concerned.

The benefit of the preferential treatment provided for in the first paragraph shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States.

The conservation and management of the resources of the entire economic zone shall lie within the competence and authority of the coastal State.

3. ACCESS AND ALLOCATION

SC.II/L.39

Afghanistan, Austria, Belgium, Bolivia, Nepal and Singapore:
draft articles on resource jurisdiction of coastal States
beyond the territorial sea

Article II

1. Land-locked and coastal States which cannot or do not declare a ... zone pursuant to article I (hereinafter referred to as the "disadvantaged States"), as well as natural or juridical persons under their control, shall have the right to participate in the exploitation and exploitation of the living resources of the ... zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational management and exploitation of the living resources of particular ... zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in that zone.

2. In the ... zone the coastal State may annually reserve for itself and such other disadvantaged States as may be exercising the right under the preceding paragraph, that part of the maximum allowable yield, as determined by the relevant international fisheries organization, which corresponds to the harvesting capacity of needs of these States.

3. States other than those referred to in paragraph 1 shall have the right to exploit that part of the remaining allowable yield subject to payments, to be determined under equitable conditions, and regulations laid down by the coastal States for the exploitation of the living resources of the ... zone.

4. Disadvantaged States shall not transfer the right conferred upon them in paragraph 1 to third parties. However, this provision shall not preclude the disadvantaged States from entering into arrangements with third parties for the purpose of enabling them to develop viable fishing industries of their own.

5. A developed coastal State, which establishes a ... zone pursuant to article I, paragraph 1, shall contribute ... per cent of its revenues or derived from the exploitation of the living resources in that zone to the international authority. Such contributions shall be distributed by the international authority on the basis of equitable sharing criteria.

SC.II/L.40 and Corr.1-3

Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia,
Madagascar, Mauritius, Senegal, Sierra Leone, Somalia,
Sudan, Tunisia and United Republic of Tanzania: draft
articles on exclusive economic zone

Article VIII

Nationals of a developing land-locked State and other geographically disadvantaged States shall enjoy the privilege to fish in the exclusive economic zones of the adjoining neighbouring coastal States. The modalities of the enjoyment of this privilege and the area to which they relate shall be settled by agreement between the coastal State and the land-locked State concerned. The right to prescribe and enforce management measures in the area shall be with the coastal State.

The African States endorse the principle of the right of access to and from the sea by the land-locked countries, and the inclusion of such a provision in the universal treaty to be negotiated at the law of the sea conference.

Article X

Neighbouring developing States shall give reciprocal preferential treatment to one another in the exploitation of the living resources of their respective economic zones.

Article XI

No State exercising foreign domination and control over a territory shall be entitled to establish an economic zone or to enjoy any other right or privilege referred to in these articles with respect to such territory.

SC.II/L.37 and Corr.1

Argentina: draft articles

8. States in a particular region or subregion which for geographical or economic reasons do not see fit to extend their sovereign rights to an exclusive maritime area adjacent to their territorial sea shall enjoy a preferential régime for purposes of fishing in the exclusive maritime areas of other States belonging to the region or subregion, such régime to be determined by bilateral agreements providing for a fair adjustment of their mutual interests.

The said régime shall be granted provided that the enterprises of the State which wishes to exploit the resources in question are effectively controlled by capital and nationals of that State and that the ships which operate in the area fly the flag of that State.

9. The prospecting and exploration of the maritime area adjacent to the territorial sea and the exploitation of the natural resources existing therein are subject to the regulations of the coastal States concerned, which may reserve those activities to themselves or to their nationals or may allow third parties to engage in them in accordance with the provisions of their internal laws and of such international agreements as they may conclude on the matter.

14. Through bilateral and, where appropriate, subregional agreements, a coastal State shall facilitate for neighbouring States having no sea-coast the right of access to the sea and of transit. In the same way agreement shall be reached with States having no sea-coast on an equitable régime for the exercise in the maritime area of fishing rights which shall be preferential in relation to third States. The said preferential rights shall be granted provided that the enterprises of the State which wishes to exploit the resources in question are effectively controlled by capital and nationals of that State and that the ships which operate in the area fly the flag of that State.

C.11/L.11

Article 11.11 submitted by Australia and New Zealand

SC.11/L.16

Working paper submitted by the delegations of Australia and Norway containing certain basic principles on an economic zone and on delimitation

III. Assuming that the coastal State may take measures:-

- (a) limiting the number of fishing vessels and equipment to operate in the zone;
- (b) limiting the number of vessels and the number of units of gear that may be used;
- (c) limiting the gear permitted to be used;
- (d) fixing the period during which fish or fish of a species or class may be taken;
- (e) fixing the size of fish that may be taken;
- (f) specifying the method of fishing that may be used in a specified area or for taking a specified species or class of fish and prohibiting any other method.

IV. Subject to its exclusive jurisdiction, it would be for the coastal State to determine the allowable catch of any particular species, and to allocate to itself that portion of the allowable catch, up to 100 per cent, that it can harvest.

(Comment: Exclusive jurisdiction means that it would be the coastal State that makes the preliminary and final decisions on any resource issues that arise. Exclusive jurisdiction would not, however, be inconsistent with the existence of advisory or consultative procedures to deal with basic issues in respect of the administration by the coastal State of its resource jurisdiction where other interested States raise those issues).

V. Where the coastal State is unable to take 100 per cent of the allowable catch of a species as determined under the Principles, it shall allow the entry of foreign fishing vessels with a view to maintaining the maximum possible food supply.

Such access shall be granted up to the level of allowable catch on an equitable basis without the imposition of unreasonable conditions and without discrimination between nationals of other States, except as may be provided for under sharing-out arrangements made in accordance with these Principles.

(Comment: The question of licence fees is one that requires consideration. Whilst, having regard to taxes and other charges imposed on the local fishermen and the cost of providing facilities and surveillance services, the coastal State might wish to impose higher licence fees on foreign vessels, such fees should not be unreasonable).

VI. Measures adopted by the coastal State shall take account of traditional subsistence fishing carried out in any part of the fisheries zone.

(Comment: A definition of "traditional subsistence fishing" may be required in order clearly to identify the limited range of fishing in mind under this Principle. In practice the problem could perhaps be best dealt with by regional arrangements among the countries concerned).

VII. When the coastal State intends to allocate to itself the whole of the allowable catch of a species, in accordance with these Principles, it shall enter into consultation with any other State which requests such consultation and which is able to demonstrate that its vessels have carried on fishing in the fishery resources zone on a substantial scale for a period of not less than five years with a view to:-

- (a) analysing the catch and effort statistics of the other state in order to establish the level of fishing operations carried out in the zone by the other state;
- (b) negotiating special arrangements with the other state under which the latter's vessels would be "shared out" of the fishery having regard to the developing fishing capacity of the coastal State; and
- (c) in the event of agreement not being reached through consultation there shall be a "sharing out" period of five years.

SC.II/L.25

Brazil: draft articles containing basic provisions on the question of the maximum breadth of the territorial sea and other modalities or combinations of legal regimes of coastal State sovereignty, jurisdiction or specialized competences

SC.II/L.36 and Corr.1

Canada, India, Kenya, Madagascar, Senegal and Sri Lanka: draft articles on fisheries

Article 4

The coastal State may allow nationals of other States to fish in its exclusive fishery zone, subject to such terms, conditions and regulations as it may from time to time prescribe. These may, inter alia, relate to the following:

- (a) Licensing of fishing vessels and equipment, including payment of fees and other forms of remuneration;
- (b) Limiting the number of vessels and the number of gear that may be used;
- (c) Specifying the gear permitted to be used;
- (d) Fixing the periods during which the prescribed species may be caught;
- (e) Fixing the age and size of fish that may be caught;
- (f) Fixing the quota of catch, whether in relation to particular species of fish or to catch per vessel over a period of time or to the total catch of nationals of one State during a prescribed period.

Article 5

Neighbouring developing coastal States shall allow each other's nationals the right to fish in a specified area of their respective fishery zones on the basis of long and mutually recognized usage and economic dependence on exploitation of the resources of that area. The modalities of the exercise of this right shall be settled by agreement between the States concerned. This right will be available to the nationals of the State concerned and cannot be transferred to third parties by lease or licence, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located.

SC.II/L.34

Working paper submitted by the Chinese Delegation: sea area within the limits of national jurisdiction

(4) A coastal State shall, in principle, grant to the land-locked and shelf-locked States adjacent to its territory common enjoyment of a certain proportion of the rights of ownership in its economic zone. The coastal State and its adjacent land-locked and shelf-locked States shall, through consultations on the basis of equality and mutual respect for sovereignty, conclude bilateral or regional agreements on the relevant matters.

(5) Other States may engage in fishing, mining or other activities in the economic zone of a coastal State pursuant to agreement reached with the coastal State.

(6) A coastal State may enact necessary laws and regulations for the effective regulation of its economic zone.

Other States, in carrying out any activities in the economic zone of a coastal State, are required to observe the relevant laws and regulations of the coastal State.

(3) The delimitation of boundaries between the economic zones of coastal States adjacent or opposite to each other shall be jointly determined through consultations on an equal footing.

Coastal States adjacent or opposite to each other shall, on the basis of safeguarding and respecting the sovereignty of each other, conduct necessary consultations to work out reasonable solutions for the exploitation, regulation and other matters relating to the natural resources in the contiguous parts of their economic zones.

SC.II/L.45

Working paper submitted by the Chinese delegation: general principles for the international sea area

SC.II/L.21

Colombia, Mexico and Venezuela: draft articles on

(2) In order to have access to and from the international sea area for trade and other peaceful purposes, land-locked States have the right to pass through the territory, territorial sea and other waters of adjacent coastal States. Coastal States and adjacent land-locked States shall, through consultations on the basis of equality and mutual respect for sovereignty, conclude bilateral or regional agreements on the relevant matters.

SC.II/L.47 and Corr.1 and 2

Draft articles for inclusion in a convention on the law of the sea, working paper submitted by the delegation of Ecuador, Panama and Peru

Article 8

The prospecting, protection, conservation and exploitation of the renewable resources of the adjacent sea shall also be subject to the regulations of the coastal State and to any relevant agreements which it may conclude, with due regard, as far as may be appropriate, to co-operation with other States and the recommendations of international technical organizations.

... (Complementary provisions on natural resources)

Article 13

1. In regions or subregions in which certain coastal States, owing to geographical or ecological factors, are unable, before all their coastlines, to extend the limits of their sovereignty and jurisdiction up to distances equal to those adopted by other coastal States in the same region or subregion, the former States shall enjoy, in the seas of the latter States, a preferential régime vis-à-vis third States in matters relating to the exploitation of renewable resources, the said régime to be determined by regional, subregional or bilateral agreements taking into account the interests of the respective States.

2. Enjoyment of the preferential régime referred to in the preceding paragraph shall be reserved to nationals of the usufructuary States for internal use.

Article 15

1. Land-locked States shall have the right of free access to the sea for the purpose of such uses and such preferential régime as they may agree upon with the neighbouring coastal States within the seas adjacent to the latter, and for enjoyment of the freedoms of the international seas.

2. Such uses and such preferential régime in the seas adjacent to the neighbouring coastal States as may be agreed upon shall be reserved to national enterprises of the land-locked State.

3. For the purposes provided for in this article, coastal States shall guarantee neighbouring land-locked States free passage through their territories, as well as equal treatment as regards entry into and use of ports, in accordance with internal legislation and any relevant agreements they may conclude.

Article 16

Coastal States which are not adjacent to land-locked States in the same region or subregion shall accord uses and a preferential régime within their adjacent seas to national enterprises of such land-locked States, under regional, subregional or bilateral agreements taking the interests of the respective States into account.

... (Complementary provisions on the régime for land-locked countries)

SC.II/L.54

Ecuador, Panama and Peru: draft articles on fisheries in national and international zones in ocean space

Article B

The coastal State may reserve the exploitation of living resources in the maritime zone under its sovereignty and jurisdiction to itself or its nationals having regard to the need to promote the efficient utilization of such resources for economic stability and maximum social benefits.

Article C

Where the coastal State permits nationals of other States to exploit living resources in the maritime zone under its sovereignty and jurisdiction, it shall establish conditions for such exploitation, including, *inter alia*:

- (a) obtaining fishing and marine hunting licences and permits through the corresponding fees;
- (b) specifying the species that may be caught;
- (c) fixing the age and size of the fish or other resources that may be caught;
- (d) establishing prohibited areas for fishing and hunting;
- (e) fixing the periods during which the indicated species may be caught;
- (f) fixing the maximum size of catches;
- (g) limiting the number and tonnage of the vessels and the gear that may be used;
- (h) specifying the gear permitted to be used;
- (i) procedures and penalties applicable in cases of violation.

Article I

The coastal State shall enjoy preferential rights to exploit living resources in a sector of the sea adjacent to the zone under its sovereignty and jurisdiction and may reserve to itself or its nationals a part of the permissible catch resources.

Article J

With regard to the living resources of an area of the sea situated between the limits of the zones of sovereignty and jurisdiction of two or more States, breed, feed and live by reason of the resources of that area, the States concerned may agree among themselves on appropriate regulations for the exploration, conservation and exploitation of such resources.

SC.11/L.12

Japan: Draft articles on regional facilities for developing geographically disadvantaged coastal States

Proposals for a régime of fisheries on the high seas, submitted by Japan

Article 1

Where by reason of the geography of a region or subregion the maritime zones beyond 12 miles from the coasts of States bordering on that region or subregion converge into each other and within the zone of convergence there are geographically disadvantaged coastal States, the nationals of such States shall have a right of equal access to the living resources of the maritime zones in these convergent areas.

Article 2

In the application of articles 1 and 2 to the associated States, self-governing territories and territories under foreign domination the rights thereby conferred shall be so applied as only to confer rights on the inhabitants of such territories for the purpose of their domestic needs.

PREFERENTIAL RIGHTS OF COASTAL STATES

3.1 Preferential rights

To the extent consistent with the objective of conservation, a coastal State shall have a preferential right to ensure adequate protection to its coastal fisheries conducted in its adjacent waters.

(i) In the case of a developing coastal State:

The coastal State is entitled annually to reserve for its flag vessels that portion of the allowable catch of a stock of fish it can harvest on the basis of the fishing capacity of its coastal fisheries. In determining the part of the allowable catch to be reserved for the developing coastal State, the rate of growth of the fishing capacity of that State shall be duly taken into account until it has developed that capacity to the extent of being able to fish for a major portion of the allowable catch of the stock of fish.

(ii) In the case of a developed coastal State:

The coastal State is entitled annually to reserve for its flag vessels that portion of the allowable catch of a stock of fish which is necessary to maintain its locally conducted small-scale coastal fisheries. The interests of traditionally established fisheries of other States shall be duly taken into account in determining the catch to be reserved for such small-scale coastal fisheries.

3.2 Implementation of preferential rights

(1) Measures to implement the preferential rights shall be determined by agreement among the coastal and non-coastal States concerned on the basis of the proposals made by the coastal State. For the purpose of such proposals, the coastal State may seek technical assistance from the Food and Agriculture Organization of the United Nations or such other appropriate organs.

(2) The size of the preferential right of a coastal State shall be fixed within the limit of the allowable catch of the stock of fish subject to allocation, if the allowable catch for that stock is already estimated for conservation purposes. In cases where the estimate of the allowable catch is not available, the coastal and non-coastal States concerned shall agree on necessary measures in a manner which will best enable the coastal State to benefit fully from its preferential right.

(3) The regulatory measures adopted to implement the preferential right of a coastal State may include catch allocation (quota by country) and/or such other supplementary measures that will be made applicable to vessels of non-coastal States engaged in fishing in the adjacent waters of the coastal State, including:

- (a) the establishment of open and closed seasons during which fish may or may not be harvested;
- (b) the closing of specific areas to fishing;
- (c) the regulation of gear or equipment that may be used;
- (d) the limitation of catch of a particular stock of fish that may be harvested.

(4) The regulatory measures adopted shall be so designed as to minimize interference with the fishing of non-coastal States directed to stocks of fish, if any, which are not covered by such measures.

(5) Non-coastal States shall co-operate with coastal States in the exchange of available scientific information, catch and effort statistics and other relevant data.

(6) In cases where nationals of two or more coastal States which are entitled to preferential rights are engaged in fishing a common stock of fish, no coastal State may invoke their preferential right with respect to such stock without the consent of the other coastal State or States concerned. In such a case, those coastal States shall enter into regional consultations with the other States concerned with a view to implementing their preferential rights.

(7) The measures adopted under this paragraph shall be subject to review at such intervals as may be agreed upon by the States concerned.

SC.II/L.20

SC.II/L.29 and Corr.1

NOTE: Preliminary draft articles on the delimitation of coastal State jurisdiction in ocean space and on the rights and obligations of coastal States in the area under their jurisdiction

Netherlands: proposal concerning an intermediate zone

Article 81

1. In view of the vital interest of the international community in the maintenance of the productivity of fisheries, the coastal State has the obligation:

- (a) to consult with other States in the region and with the international ocean space institutions before undertaking or permitting activities in national ocean space which could substantially reduce the living resources of ocean space outside its jurisdiction;
- (b) to maintain the quality of the marine environment in national ocean space in a state which (i) does not adversely affect fish-spawning areas within its jurisdiction; (ii) does not produce significant deleterious effects on the living resources of ocean space outside its jurisdiction;
- (c) to co-operate with the international ocean space institutions in the formulation and implementation of programmes of conservation of living resources of its national ocean space when the recommendations of the institutions are based on reliable and appropriate scientific findings;
- (d) to co-operate with coastal States in the region in the formulation and implementation of programmes of conservation of the living resources of national ocean space when there is need for the application of regional conservation measures in the light of the existing knowledge of the fishery.

Article 88

1. The coastal State may reserve to its national the exploitation of some or of all the living resources of its national ocean space.
2. The international ocean space institutions and the coastal State or States concerned shall elaborate and implement in close consultation, if necessary through appropriate regional bodies, non-discriminatory programmes for the exploitation of such living resources of national ocean space the migratory range of which extends into international ocean space.
3. Nothing in the foregoing paragraphs shall affect traditional subsistence fishing or the catching of fish for immediate human consumption by foreign fishermen in national ocean space: such activities shall be defined and regulated in special conventions negotiated between States in the region.
4. Notwithstanding the provisions of subparagraph 1, the coastal State has an obligation to provide adjacent land-locked countries with access to the living resources of its national ocean space on conditions similar to those applicable to its own nationals.

Article 89

1. The coastal State has the obligation to exploit, or permit the exploitation of, the living resources of its national ocean space in accordance with appropriate and effective programmes of conservation.
2. Failure to comply with the provisions of the foregoing paragraph entails legal liability for damages and may be brought to the attention of the international ocean space institutions, when such failure causes a significant reduction of fish stocks or produces significant deleterious effects on the living resources of ocean space outside the jurisdiction of the coastal State.

Article 91

Activities of foreign fishing and fish processing vessels within national ocean space as defined in article 11 shall be brought into conformity with the provisions of article 88 within five years of the entry into force of this convention.

Article 2

All exploration for, and exploitation of, the living or non-living resources of the intermediate zone shall be licensed by the coastal State, subject to the rules and regulations established by the competent international authorities (global, regional and/or subregional authorities).

Article 3

Limitation of licenses

Coastal States which have been determined to be advantaged, in accordance with the provisions of article 5, may limit the total amount of living or non-living resources which may be extracted from the intermediate zone during a specified period and reserve licenses for the option of such operators as are its own nationals and nationals of disadvantaged States, in proportions to be determined in accordance with the rules and procedures set forth in article 5.

Article 4

Limitation of disposal of a resource

The advantaged coastal State may determine that the whole or part of the living or non-living resources extracted by licensed foreign operators from the intermediate zone during a specified period shall be offered at world market prices for processing or consumption in its territory and in the territories of the disadvantaged States in proportions to be determined in accordance with the rules and procedures set forth in article 5.

Article 5

Determination of advantaged and disadvantaged States

1. The proportions mentioned in articles 3 and 4 shall be determined by the competent international authority in such a manner that the sum total of the "advantages" of States advantaged in the intermediate zone can be shared among the disadvantaged States pro rata of the "disadvantage" of each of them.

The rates of (dis)advantage may be determined in two phases:

- (a) The competent international authority shall determine firstly, in accordance with the provisions of paragraph 2 of this article, rates of "(dis)advantage" in terms of surface;
- (b) The competent international authority has the power to revise from time to time the rates determined in accordance with (a), with a view to equalize possible gross disproportions among actual benefits accruing to particular States, if such disproportions result from grossly unequal distribution of resources in the respective areas of intermediate zone.

2. For the determination of the rates mentioned under (a) of the preceding paragraph the "advantage" of a given State is the amount of surface (square nautical miles) by which the actual intermediate zone of that State exceeds ... per cent of a theoretical surface "A" and the "disadvantage" of a given State is the amount of surface by which the actual intermediate zone of that State falls short of ... per cent of "A".

"A" in relation to any State is the surface, expressed in square nautical miles, of a theoretical sea-area of a width of ... nautical miles around a theoretical circular island area equal in size to the actual total land area of that State.

Article 6

Negotiations between advantaged and disadvantaged States

1. Any disadvantaged State is entitled to enter into negotiations with any advantaged State, within groups of States to be determined by the competent international authority, in order to determine by agreement its share for the purpose of the application of article 3 or 4.

Notification shall be made to the competent international authority of any such negotiations having been entered into and of any agreement reached. The competent international authority shall have the power once in 20 years to revise its determination of groups of States.

2. If agreement is not reached within three years after negotiations have commenced, the competent international authority shall be requested to make recommendations to the Contracting Parties concerned.

If agreement is not reached within one year after such recommendations are made, the determination recommended by the authority shall take effect unless either Party, within 90 days thereafter, brings the matter before the Tribunal.

Article 7

Optional transfer of part of the intermediate zone to the competent international authority

Any geographically advantaged State may decide to transfer a part of its intermediate zone equal to its "advantage" to the competent international authority to be administered by it in accordance with articles 5 and 6.

SC.II/L.41

Vienna and Zaire: draft articles on the proposed economic zone

SC.II/L.42

Unesco: draft treaty articles on the territorial sea

Article

Coastal States shall, through bilateral or subregional agreements, as may require, in which the interests of all parties are given fair consideration to States having no sea-coast which are their neighbours or which be the same subregion preferential treatment over third States with regard to fishing rights in that area of their territorial sea which is not reserved exclusively for their nationals. Such preferential treatment shall be reserved for national enterprises of the States having no sea-coast which operate in the exclusively with ships flying the flag of those States and whose catch is for domestic or industrial consumption in the said States, or for national enterprises of the States having no sea-coast which are associated with national enterprises of the coastal States.

SC.II/L.52

Polish: breadth of the territorial sea and boundaries of the exclusive economic zone

17A

SC.II/L.9

United States of America: revised draft fisheries article

II. COASTAL AND ANADROMOUS LIVING RESOURCES

B. The coastal State may annually reserve to its flag vessels, in accordance with this article, that portion of such coastal and anadromous resources as they can harvest.

C. Such coastal and anadromous resources which are located in or migrate through waters adjacent to more than one coastal State shall be regulated by agreement among such States.

V. UTILIZATION AND ALLOCATION

In order to assure the maximum utilization and equitable allocation of coastal and anadromous resources, the coastal State shall apply the following principles:

A. The coastal State may reserve to its flag vessels that portion of the allowable annual catch they can harvest.

B. The coastal State shall provide access by other states, under reasonable conditions, to that portion of the resources not fully utilized by its vessels on the basis of the following priorities:

- (1) States that have traditionally fished for a resource, subject to the conditions of sub-paragraph C;
- (2) other States in the region, particularly landlocked States and other States with limited access to the resource, with whom joint or reciprocal arrangements have been made; and
- (3) all States, without discrimination among them.

C. Whenever necessary to accommodate the allocations to the coastal States traditional fishing may be reduced, without discrimination among those States that have traditionally fished for a resource, in the following manner:

(Formula to be negotiated within Subcommittee II which takes into account the interests of traditional fishing States.)

States whose fishermen harvest a resource under regulation by a coastal State may be required, without discrimination, to pay reasonable fees to defray their share of the cost of such regulation.

VI. NOTIFICATION CONSULTATION

The coastal State shall give to all affected states timely notice of any conservation, utilization and allocation regulations, prior to their implementation, and shall consult with other States concerned.

SC.II/L.6

Draft article on fishing (basic provisions and explanatory note)
submitted by the Union of Soviet Socialist Republics

3. The part of the allowable catch of fish which is not reserved in accordance with paragraphs 1 and 2 above may be taken by vessels navigating under the flags of other States, including land-locked States, without detriment to the reproduction of the stocks of fish.

4. In the areas referred to in this article which are not covered by the measures specified in paragraph 3, the coastal State may itself establish fishing regulatory measures on the basis of scientific findings. Such measures shall be established by the coastal State in agreement with the States also engaged in fishing in the said areas.

Regulatory measures shall not discriminate in form or in substance against fishermen of any of those States.

EC.11/L.60

Subject: draft articles on fishing

Article 1

Neighbouring developing States shall grant one another preferential treatment in their respective economic zones with regard to the exploitation of living resources. The procedure for the exercise of such rights shall be settled by arrangement between the States concerned.

The benefit of the preferential treatment provided for in the first paragraph shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States.

The conservation and management of the resources of the entire economic zone shall lie within the competence and authority of the coastal State.

Article 2

Land-locked States and geographically disadvantaged States shall have the right to participate, on a footing of equality and without discrimination, in the exploitation of the living resources of the economic zones of neighbouring coastal States.

The detailed procedure for the exercise of such a right may be determined on a bilateral or regional basis in suitable arrangements.

The benefit of that right shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States and for their use and benefit.

Article 3

Neighbouring developing coastal States in the same region shall recognize traditional fishing rights belonging to one another and acquired before the establishment of the exclusive economic zone under this Convention, on the same terms as before the entry into force of this Convention and without prejudice to the regulation of the coastal State concerning the conservation, utilization and management of resources.

Article 4

No State exercising colonial or similar domination may take advantage of the provisions of the foregoing articles to act in place of another country situated outside its national territory.

4. INTERNATIONAL OR REGIONAL BODIES

SC.II/L.59

Argentina, Australia, Belgium, Bolivia, Nepal and Singapore:
draft articles on resource jurisdiction of coastal States
beyond the territorial sea

SC.II/L.40 and Corr.1-5

Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia,
Madagascar, Mauritius, Senegal, Sierra Leone, Somalia,
Swaziland, Tunisia and United Republic of Tanzania: draft
articles on exclusive economic zone

SC.II/L.37 and Corr.1

Argentina: draft articles

SC.II/L.11

Working paper submitted by Australia and New Zealand

XIV. [The role of international bodies.]

(Comment: As indicated in the Canadian Working Paper, the concept of coastal State responsibility does not preclude a role for international fishery commissions. These commissions might be global or they might be regional in nature. Such commissions could have an important advisory role vis-à-vis the coastal State in its discharge of its responsibilities).

185

SC.11/L.46

Working paper submitted by the delegations of Australia and Norway containing certain basic provisions on an economic zone and on delimitation

SC.11/L.45

Small draft articles containing basic provisions on the question of the breadth of the territorial sea and other modalities or combinations of legal of coastal state sovereignty, jurisdiction or specialized competences

SC.11/L.95

Canada, India, Korea, Maldives, Oman and Sri Lanka:
don't article on fisheries

SC.11/L.94

Articles were submitted by the Chinese delegation: see above
within the limits of national jurisdiction

Article 3

Each coastal State shall notify to the authority designated for the purpose by the Conference on the Law of the Sea the limits of the exclusive fishery zone defined by co-ordinates of latitude and longitude or by any other internationally recognized method and marked on large-scale charts officially recognized by that State.

Article 9

Regulations may be made on a regional basis for the exploration, exploitation, conservation and development of the living resources of the area of the sea outside the limits of the exclusive fishery zone, where these resources are of limited migratory habits and breed, feed and survive on the resources of the region. The States of the region may establish these regulations by entering into an agreement or convention between themselves, or request the authority designated for the purpose by the Conference on the Law of the Sea to formulate these regulations for the region subject to ratification by them.

Article 11

Any difference or dispute concerning fishing activities outside the exclusive fishery zone shall be referred to the authority designated for the purpose by the Conference on the Law of the Sea.

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EC.II/L.6)

Article 10. Committee for the International Sea Area

6.(...) Pending the establishment of a unified international fishery organization, States of a given sea area may set up a regional committee to work out appropriate rules and regulations for the regulation of fishing and the conservation of marine living resources in the international sea area. Fishing vessels of States of other regions may enter the said region for fishing activities provided they comply with the relevant rules and regulations of the region.

EC.II/L.7)

Colombia, Brazil and Venezuela: draft a "fishery" treaty

Regional agreements

Article 10

No provision of this Treaty shall be interpreted as preventing or restricting the right of any State to conclude regional or subregional agreements to regulate exploitation or distribution of the living resources of the sea, preservation of the marine environment or scientific research, or as affecting the legal validity of existing agreements.

SC.II/L.57 and Corr.1 and 2

SC.II/L.58

~~Draft articles for inclusion in a convention on the law of the sea, relating to the delimitation of the exclusive economic zone and the continental shelf~~

~~Boundary, Rights and Responsibilities draft articles on fisheries in national and international areas in open areas~~

Article 14

The coastal States of a single region or subregion shall promote such forms of co-operation and consultation as they consider most appropriate in the legal, economic, scientific and technical spheres relating to maritime questions.

... (Complementary provisions on regional and subregional agreements)

SC.II/L.55

~~Annex: Draft articles on regional facilities for developing geographically disadvantaged coastal States~~

Article 1

2. The procedures regulating the preferential régime referred to in paragraph 1 above shall be determined by regional, subregional and bilateral agreements.

Article 2

Where by reason of the geography of a region or subregion the maritime zones beyond 12 miles from the coasts of States bordering on that region or subregion converge into each other and within the zone of convergence there are geographically disadvantaged coastal States, the nationals of such States shall have a right of equal access to the living resources of the maritime zones in these convergent areas.

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SC.11/L.12

Proposals for a regime of fisheries on the high seas
submitted by Japan

5.5 International Co-operation

In order to assist in the development of the fishing capacity of a developing coastal State and thereby to facilitate the full enjoyment of its preferential right, international co-operation shall be carried out in the field of fisheries and related industries between the developing coastal State and other fishing States in concluding agreements on the preferential right of that developing coastal State.

7.2 Co-operation within regional fishery commissions

Co-operation between coastal and non-coastal States under the present regime shall be carried out, as far as possible, through regional fishery commissions. For this purpose, the States concerned shall endeavor to strengthen the existing commissions and shall co-operate in establishing new commissions whenever desirable and feasible.

SC.11/L.20

Final: Preliminary draft articles on the delimitation of coastal State
jurisdiction in ocean space and on the rights and obligations of coastal
States in the area under their jurisdiction

Article 80

2. The coastal State shall have the obligation to transfer to the international ocean space institutions a portion of the financial benefits received from the exploitation of the natural resources of national ocean space. The institutions shall prepare a special draft convention on this matter for consideration by Contracting Parties.

Article 84

1. The international ocean space institutions, and persons or entities under their sponsorship, may conduct in national ocean space beyond 12 nautical miles from the coast, giving prior notice thereof to the coastal State, investigations for the purpose of obtaining such biological samples and scientific information relating to the living resources of ocean space as may be necessary to formulate national and effective programmes of conservation.

2. The coastal State shall be offered reasonable opportunity to appoint its nationals to participate in the investigations mentioned in the foregoing paragraph and, in any case, shall be provided with the full data obtained and interpretation thereof by the international ocean space institutions.

3. The international ocean space institutions have the obligation to assist and request any State to formulate and to implement appropriate and effective programmes of conservation of the living resources of its national ocean space.

Article 85

The international ocean space institutions and the coastal State or States concerned shall elaborate in close consultation and shall implement through appropriate regional bodies programmes for the conservation of such living resources of national ocean space the migratory range of which extends into international ocean space. The living resources to which reference is made include, inter alia, anadromous resources and sea mammals.

SC.II/L.99 and Corr.1

Netherlands: proposal concerning an intermediate zone

SC.II/L.52

Pakistan: breadth of the territorial sea and boundaries of the exclusive economic zone

Article I

Optional transfer of part of the intermediate zone to the competent international authority

Any economically advantaged State may decide to transfer a part of its intermediate zone equal to its "advantage" to the competent international authority to be administered by it in accordance with articles 5 and 6.

Article II

Revenue sharing

Any State which derives revenue from exploitation of the intermediate zone shall make available ... per cent of these revenues to the competent international authority.

SC.II/L.41

Uganda and Zambia: draft articles on the proposed economic zone

SC.II/L.24

Burundi: draft treaty articles on the territorial sea

Article 3

2. Fisheries within the regional or subregional economic zones shall be reserved for the exclusive use, exploration and exploitation by all the States within the relevant region or subregion.

b. The regulation and supervision of activities within such regional or subregional economic zones shall be the responsibility of the relevant regional or subregional commissions.

SC.II/L.9

United States of America: revised draft fisheries article

SC.II/L.6

Draft article on fishing (basic provisions and explanatory note) submitted by the Union of Soviet Socialist Republics

b. In those of the areas referred to above where fishing regulatory measures are carried out through international fisheries organizations, such regulatory regimes shall remain effective in the future.

Control over the observance of the fishing regulatory measures in such areas shall continue to be exercised on the basis of the provisions adopted within the framework of the respective international fisheries organizations.

5. WIDE-RANGING

SC.II/L.39

Armenistan, Austria, Belgium, Bolivia, Brazil and Myanmar:
draft articles on resource jurisdiction of coastal States
beyond the territorial sea

SC.II/L.40 and Corr.1-3

Algeria, Cameroon, China, Ivory Coast, Kenya, Liberia,
Madagascar, Mauritius, Senegal, Sierra Leone, Somalia,
Spain, Tunisia and United Republic of Tanzania: draft
articles on exclusive economic zone

SC.II/L.37 and Corr.1

Argentina: draft articles

SC.II/L.11

Working paper submitted by Australia and New Zealand

IX. In respect of "wide-ranging" species of fish that are exploited within the zone,
the coastal State shall participate in the formulation and implementation of international
arrangements for the management of the species.

(Comment: In this connexion consideration should be given to any special coastal
State interests in those species).

XI.1. International arrangements, including where appropriate international fisheries
organizations, shall be established for the management of the "wide-ranging" species and
as appropriate the "bathypelagic" species and other species that inhabit the waters
beyond the limits of national fisheries resource jurisdiction. All States shall have an
equal right to participate in such organizations.

(Comment: On "wide-ranging" species, see also Principle IX above).

SC.II/L.36

Working paper submitted by the delegations of Australia and Norway containing
certain basic principles on an economic zone and on delimitation

SC.II/L.25

Brazil: draft articles containing basic provisions on the question of the maximum
breadth of the territorial sea and other modalities or combinations of legal regimes
of coastal State sovereignty, jurisdiction or specialized competences.

6. ANADROMOUS

SC.II/L.39

Armenistan, Austria, Belgium, Bolivia, Brazil and Myanmar:
draft articles on resource jurisdiction of coastal States
beyond the territorial sea

SC.II/L.40 and Corr.1-3

Algeria, Cameroon, China, Ivory Coast, Kenya, Liberia,
Madagascar, Mauritius, Senegal, Sierra Leone, Somalia,
Spain, Tunisia and United Republic of Tanzania: draft
articles on exclusive economic zone

SC.II/L.37 and Corr.1

Argentina: draft articles

SC.II/L.11

Working paper submitted by Australia and New Zealand

XII. It is recognized that the anadromous species is a species in respect of which the
coastal State concerned exercises over and unique responsibilities. On this basis
that coastal State would have the sole right to manage the stocks of anadromous species
bred in its home waters.

(Comment: On anadromous species, reference is made to the Working Paper submitted by
the Delegation of Canada).

SC.II/L.36

Working paper submitted by the delegations of Australia and Norway containing
certain basic principles on anadromous zone and on delimitation

SC.II/L.25

Brazil: draft articles containing basic provisions on the question of the maximum
breadth of the territorial sea and other modalities or combinations of legal regimes
of coastal State sovereignty, jurisdiction or specialized competences.

(5)

SC.II/L.30

Canada, India, Kenya, Madagascar, Senegal and Sri Lanka:
draft articles on fisheries

SC.II/L.54

Working paper submitted by the Chinese delegation: sea area
within the limits of national jurisdiction

Article 10

In respect of fisheries of highly migratory habits outside the limits of the exclusive fishery zone, regulations for their exploration, exploitation, conservation and development shall be made by the authority designated for the purpose by the Conference on the Law of the Sea.

SC.II/L.45

Working paper submitted by the Chinese delegation: general
principles for the international sea area

SC.II/L.21

Colombia, Mexico and Venezuela: draft articles of treaty

SC.II/L.27 and Corr.1 and 2

Draft articles for inclusion in a convention on the law of the sea: working
paper submitted by the delegations of Ecuador, Panama and Peru

SC.II/L.54

Ecuador, Panama and Peru: draft articles on fisheries in
national and international zones in ocean space

(6)

SC.II/L.30

Canada, India, Kenya, Madagascar, Senegal and Sri Lanka:
draft articles on fisheries

SC.II/L.34

Working paper submitted by the Chinese delegation: sea area
within the limits of national jurisdiction

Article 11

(On anadromous species)

SC.II/L.27 and Corr.1 and 2

Draft articles for inclusion in a convention on the law of the sea: working
paper submitted by the delegations of Ecuador, Panama and Peru

SC.II/L.54

Ecuador, Panama and Peru: draft articles on fisheries in
national and international zones in ocean space

SC.II/L.45

Working paper submitted by the Chinese delegation: general
principles for the international sea area

SC.II/L.21

Colombia, Mexico and Venezuela: draft articles of treaty

SC.II/L.55

Japan: Draft articles on regional facilities for developing
geographically disadvantaged coastal States

SC.II/L.12

Proposals for a régime of fisheries on the high seas,
submitted by Japan

REGULATION OF HIGHLY MIGRATORY STOCKS

4.1 No special status in the conservation of resources (2.4) and no preferential rights (3.1) shall be recognised to a coastal State in respect of highly migratory, including anadromous, stocks of fish. The conservation and regulation of such stocks shall be carried out pursuant to international consultations or agreements in which all interested States shall participate, or through the existing international or regional fishery organisations should such be the case.

SC.II/L.55

Japan: Draft articles on regional facilities for developing
geographically disadvantaged coastal States

SC.II/L.12

Proposals for a régime of fisheries on the high seas,
submitted by Japan

See Article 4.1

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SC.II/L.24

SC.II/L.41

SC.II/L.24

Malta: breadth of the territorial sea and boundaries of the exclusive economic zone

Kenya and Zambia: draft articles on the proposed economic zone

Uruguay: draft treaty articles on the territorial sea

SC.II/L.26

Malta: Preliminary draft articles on the delimitation of coastal State jurisdiction in ocean areas and on the rights and obligations of coastal States in the area under their jurisdiction

Article 20

2. The international ocean space institutions and the coastal State or States concerned shall elaborate and implement in close consultation, if necessary through appropriate regional bodies, non-discriminatory programmes for the exploitation of such living resources of national ocean space the migratory range of which extends into international ocean space.

⑥

SC.II/L.24

SC.II/L.41

SC.II/L.24

Malta: breadth of the territorial sea and boundaries of the exclusive economic zone

Kenya and Zambia: draft articles on the proposed economic zone

Uruguay: draft treaty articles on the territorial sea

SC.II/L.26

Malta: Preliminary draft articles on the delimitation of coastal State jurisdiction in ocean areas and on the rights and obligations of coastal States in the area under their jurisdiction

25A

SG.II/L.9

United States of America: revised draft fisheries article

(5)

III. HIGHLY MIGRATORY OCEANIC RESOURCES

The highly migratory oceanic resources listed in Annex A shall be regulated by appropriate international fishery organizations.

A. Any coastal State party, or other State party whose flag vessels harvest or intend to harvest a regulated resource, shall have an equal right to participate in such organizations.

B. No State party whose flag vessels harvest a regulated resource may refuse to co-operate with such organizations. Regulations of such organizations in accordance with this Article shall apply to all vessels fishing the regulated resources regardless of their nationality.

C. In the event the States concerned are unable or deem it unnecessary to establish an international organization the resources shall be regulated by agreement or consultation among such States.

(6)

SG.II/L.9

United States of America: revised draft fisheries article

II. COASTAL AND ANADROMOUS LIVING RESOURCES

The coastal State shall regulate and have preferential rights to all coastal living resources off its coast beyond the territorial sea to the limits of their migratory range. The coastal State in whose fresh or estuarine waters anadromous resources (e.g. salmon) spawn shall have authority to regulate and have preferential rights to such resources beyond the territorial sea throughout their migratory range on the high seas (without regard to whether or not they are off the coast of said State).

A. The term "coastal resources" refers to all living resources off the coast of a coastal State except the highly migratory species listed in Annex A, and anadromous resources.

B. The coastal State may annually reserve to its flag vessels, in accordance with this article, that portion of such coastal and anadromous resources as they can harvest.

C. Such coastal and anadromous resources which are located in or migrate through waters adjacent to more than one coastal State shall be regulated by agreement among such States.

UTILIZATION AND ALLOCATION

V. In order to assure the maximum utilization and equitable allocation of coastal and anadromous resources, the coastal State shall apply the following principles:

A. The coastal State may reserve to its flag vessels that portion of the allowable annual catch they can harvest.

B. The coastal State shall provide access by other states, under reasonable conditions, to that portion of the resources not fully utilized by its vessels on the basis of the following priorities:

- (1) States that have traditionally fished for a resource, subject to the conditions of sub-paragraph C;
- (2) other States in the region, particularly landlocked States and other States with limited access to the resources, with whom joint or reciprocal arrangements have been made; and
- (3) all States, without discrimination among them.

C. Whenever necessary to accommodate the allocations to the coastal States traditional fishing may be reduced, without discrimination among those States that have traditionally fished for a resource, in the following manner:

(Formula to be negotiated within Subcommittee II which takes into account

the interests of both coastal and non-coastal States
States whose fishermen harvest a resource under regulation by a coastal State may be
required, without discrimination, to pay reasonable fees to defray their share of the

6)

SC.11/L.6

Draft article on fishing (basic provisions and regulatory notes)
submitted by the Union of Soviet Socialist Republics

Conference Room Paper No. 21

6)

SC.11/L.6

Draft article on fishing (basic provisions and regulatory notes)
submitted by the Union of Soviet Socialist Republics

Conference Room Paper No. 21

2. In the area of the high seas directly adjacent to its territorial sea or fishery zone (not exceeding 12 miles), any coastal State may annually reserve to itself such part of the allowable catch of the stock of anadromous fish spawning in its rivers as can be taken by vessels navigating under that State's flag.

Anadromous species

1. Fisheries for anadromous fish shall be conducted only within the exclusive fishery zones of coastal States and subject to the terms, conditions and regulations which they may from time to time prescribe.
2. The coastal State in whose waters anadromous fish spawn shall have responsibility for the management of these stocks and for the maintenance of such stocks at their optimum level and shall have preferential rights in respect of their total harvest.
3. When fisheries for anadromous species originating in one State are conducted by other States within their own exclusive fishery zones, such fisheries shall be regulated by agreement between the coastal State (or States) concerned and the State (or States) of origin, taking into account the preferential rights of the State (or States) of origin and its (or their) responsibility for the maintenance of the stocks.

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7. ~~XXXXXX~~

SC.II/L.11

Working paper submitted by Australia and New Zealand

SC.II/L.36

Working paper submitted by the delegations of Australia and Norway on certain basic principles on an economic zone and on delimitation

VIII. The coastal State, as an exercise of its jurisdiction over the resources of the zone, shall have powers of boarding, arrest and detention of fishing vessels. Breaches of a condition of a licence, or of a law or regulation applying in the zone in accordance with these Principles shall be triable in the Courts of the coastal State concerned.

SC.II/L.39

Algeria, Austria, Belgium, Britain, Egypt and Germany:
Article 11 on territorial jurisdiction of coastal States
Article 11 on territorial sea

SC.II/L.40 and Corr.1-3

Algeria, Argentina, China, Czechoslovakia, Egypt, Liberia,
Malaysia, Mauritius, Norway, Peru, Spain, Somalia,
Tunisia, United Kingdom and United Republic of Tanzania: Article 11
Article 11 on territorial sea

SC.II/L.37 and Corr.1

Annex: Article 11

11. A coastal State shall also have jurisdiction to enforce in the maritime area adjacent to its territorial sea such measures as it may enact in order to prevent, mitigate or eliminate pollution damage and risks and other effects harmful or dangerous to the ecosystem of the marine environment, the quality and use of water, living resources, human health and the recreation of its people, taking into account co-operation with other States and in accordance with internationally agreed principles and standards.

27A

SC.II/L.25

draft articles containing basic provisions on the question of the maximum breadth of the territorial sea and other modalities or combinations of legal regimes of coastal State sovereignty, jurisdiction or specialized competence

SC.II/L.28

Canada, India, Kenya, Madagascar, Senegal and Sri Lanka: draft articles on fisheries

DC.II/L.14

Activities must be limited by the Chinese Government and must
within the limits of national jurisdiction

DC.II/L.15

Activities must be limited by the Chinese Government and must
principles for the international area

(1) A coastal State is entitled, when necessary, to deal with unauthorized entry, mining or other activities in its economic zone and with violations of its relevant laws and regulations even though permission for such activities has been given.

DC.II/L.21

Colombia, Mexico and Venezuela have no jurisdiction of straits

SC.II/L.27 and Corr.1 and 2

Draft articles for inclusion in a convention on the law of the sea: working paper submitted by the delegations of Ecuador, Panama and Peru

SC.II/L.54

Ecuador, Panama and Peru: Draft articles on fisheries in national and international waters in areas open

Article F

The coastal State may, within the limits of the maritime zone under its sovereignty and jurisdiction, board and inspect foreign-flag fishing or hunting vessels; if it finds evidence or indications of a breach of the legal provisions of the coastal State, it shall proceed to apprehend the vessel in question and take it to port for the corresponding proceedings.

Article G

States shall ensure that the vessels of their flag comply with the fishing and hunting regulations applicable in the international seas; and they shall punish those responsible for any breach that may come to their notice.

Article L

Where a State has good reason to believe that vessels of the flag of another State have violated fishing and hunting regulations applicable to the international seas, the former State may request the flag State to take the necessary steps to punish those responsible.

SC.II/L.55

Annex: Draft articles on regional facilities for developing economically disadvantaged coastal States

28B

SC.11/L.12

Provisions for a regime of fisheries in the high seas,
submitted by Japan

INTRODUCTION

5.1 Right of control by coastal States

With respect to regulatory measures adopted pursuant to the present regime, those coastal States which are entitled to preferential rights, and/or special status with respect to conservation, have the right to control the fishing activities in their respective adjacent waters. In the exercise of such right, the coastal States may inspect vessels of other States and arrest those vessels violating the regulatory measures adopted. The arrested vessels shall however be promptly delivered to the flag State concerned. The coastal States may not refuse the participation of other States in controlling the operation, including boarding officials of the other States on the coastal States patrol vessels at the request of the latter States. Details of control measures shall be agreed upon among the parties concerned.

5.2 Jurisdiction

- (a) Each State shall make it an offence for its nationals to violate any regulatory measures adopted pursuant to the present regime.
- (b) Nationals on board a vessel violating the regulatory measures in force shall be duly prosecuted by the flag State concerned.
- (c) Reports prepared by the officials of a coastal State on the offence committed by a vessel of a non-coastal State shall be fully respected by that non-coastal State, which shall notify the coastal State of the disposition of the case as soon as possible.

SC.11/L.25

United Nations Convention on the Law of the Sea
Article 111. Jurisdiction in cases of piracy and on the rights and obligations of coastal States in the area under their jurisdiction

Article 111

1. The coastal State may inspect with due consideration in its national ocean space foreign flag fishing and fish processing vessels.
2. The coastal State may seize a foreign flag fishing or fish processing vessel and its cargo and arrest the persons on board when upon inspection it is found that the vessel has gravely and intentionally violated programmes of conservation of living resources, or when it is found that the vessel had engaged in fishing in national ocean space in contravention of the laws of the coastal State.
3. The coastal State shall promptly inform the consular authorities of the flag State of the offending vessel and, if the captain so requests, the international ocean space institutions, of the measures taken with respect to the vessel, its cargo and crew.
4. The courts of the coastal State shall in the first instance be competent to adjudicate the offences to which reference is made in paragraph 2. The captain and crew of the offending vessel shall have access to legal assistance of their choice and, before trial, shall be subject only to such personal restraint as may be necessary to prevent their departure from the jurisdiction of the competent court of the coastal State. The flag State of the offending vessel shall be promptly informed of the disposition of the case.
5. Appeal from the courts of the coastal State shall lie to the International Maritime Court.

SC.II/L.52

Pakistan: breadth of the territorial sea and
borderline of the exclusive economic zone

SC.II/L.24

Uruguay: draft treaty articles on the territorial sea

SC.11/L.9

United States of America: revised draft fisheries article

SC.11/L.6

Draft article on fishing (basic provisions and explanatory note, submitted by the Union of Soviet Socialist Republics)

VIII. ~~UNDEVELOPED~~

Actions under this paragraph shall be taken in such a manner as to minimize interference with fishing and other activities in the marine environment.

4. Coastal State - the coastal State may inspect and arrest vessels for fishing in violation of its regulations. The coastal State may try and punish vessels for fishing in violation of its regulations, provided that where the state of nationality of a vessel has established procedures for the trial and punishment of violations of coastal State fishing regulations adopted in accordance with this article, an arrested vessel shall be delivered promptly to duly authorized officials of the state of nationality for trial and punishment, who shall notify the coastal State of the disposition of the case within six months.

5. International fisheries organization - Each State party to an international organization shall make it an offence for its flag vessels to violate the regulations adopted by such organization in accordance with this article. Officials authorized by the appropriate international organization, or of any State so authorized by the organization, may inspect and arrest vessels for violating the fisheries regulations adopted by such organizations. An arrested vessel shall be promptly delivered to the duly authorized officials of the flag State. Only the flag State of the offending vessel shall have jurisdiction to try the case or impose any penalties regarding the violation of fishery regulations adopted by international organizations pursuant to this article. Each State has the responsibility of notifying the enforcing organization within a period of six months of the disposition of the case.

6. The coastal State may itself exercise control over the observance of the fishing regulatory measures initiated by it under paragraph 5.

In cases where the competent authorities of the coastal State have sufficient reasons for believing that a foreign vessel engaged in fishing is violating these measures, they may stop the vessel and inspect it, and also draw up a statement of the violations. The consideration of cases which may arise in connection with violations of the said measures by a foreign vessel, as well as the punishment of members of the crew guilty of such violations, shall be effected by the flag-State of the vessel which has committed the violation. Such State shall notify the coastal State of the results of the investigation and of measures taken by it.

8. SUMMARY OF DISCUSSION

SC.II/L.39

Algeria, Austria, Belgium, Bolivia, Brazil and Singapore:
draft articles on resource jurisdiction of coastal States
beyond the territorial sea

SC.II/L.40 and Corr.1-3

Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia,
Madagascar, Mauritius, Panama, Sierra Leone, Somalia,
Togo, Tunisia and United Republic of Tanzania: draft
articles on exclusive economic zone

SC.II/L.37 and Corr.1

Argentina: draft articles

Article IV

Any dispute arising from the interpretation and application of the provisions of the foregoing articles shall be subject to the procedures for the compulsory settlement of disputes provided for in the Convention.

SC.II/L.11

Working paper submitted by Australia and New Zealand

XII. Where a State alleges that -

- (a) the living resource of the zone are being substantially overexploited or
- (b) non-living resource principles are being substantially departed from by
the coastal State concerned,

it may request the coastal State to review the measures taken by it. The State making
the allegation may require it to be referred to an advisory expert body that would be
empowered to convey its findings to the States concerned and, if that body considers it
desirable, to make recommendations with a view to resolving the issue.

(Comment: Provision should be made for the appointment of the advisory expert body, either by agreement of the States concerned or, in default of agreement, by other means. Use could be made of international organizations, including regional organizations, which might agree to provide facilities in this regard. While the exercise of jurisdiction by the coastal State would be open to scrutiny on the issues referred to, the role of the expert body would be advisory only. Responsibility for resource management must carry with it the final authority necessary to fulfill that responsibility).

SC.II/L.36

Working paper submitted by the delegation of Australia and
Norway containing certain basic principles on an economic zone and
on delimitation

SC.II/L.25

Small's draft articles containing basic provisions on the question of the maximum
breadth of the territorial sea and other modalities or combinations of legal regimes
of coastal State sovereignty, jurisdiction or specialized competence

SC.II/L.38

Canada, India, Kenya, Madagascar, Senegal and Sri Lanka:
draft articles on fisheries

SC.II/L.34

Working paper submitted by the Chinese delegation: sea area
within the limits of national jurisdiction

Article 13

The jurisdiction and control over all fishing activities within the exclusive fishery zone shall lie with the coastal State concerned. Any difference or dispute concerning the limits of the zone or the interpretation or validity of the terms, conditions or regulations referred to in article 5 or the interpretation and application of these articles shall be settled by the competent institutions of the coastal State concerned.

SC.II/L.45

Working paper submitted by the Chinese delegation: general
principles for the international sea area

SC.II/L.21

Colombia, Mexico and Venezuela: draft articles of treaty

AC.II/L.57 and Corr.1 and 2

Draft articles for inclusion in a convention on the law of the sea: working
paper submitted by the delegations of Ecuador, Panama and Peru

AC.II/L.54

Ecuador, Panama and Peru: draft articles on fisheries in
national and international zones in ocean space

Article I

Any dispute concerning fishing or hunting activities by foreign-flag vessels within the zone under the sovereignty and jurisdiction of the coastal State shall be settled by the competent authorities of the coastal State.

Article II

Any dispute relating to the interpretation or application of Articles G to I of this Convention and of any international or regional regulations that may be adopted, or in respect of fishing and hunting activities in the international sea, shall be submitted to the procedures for peaceful settlement provided for in the Convention.

SC.II/L.12

Provisional for a regime of fisheries on the high seas,
submitted by Japan

INTERIM MEASURES AND DISPUTES SETTLEMENT

6.1 Interim measures

If the States concerned fail to reach agreement within six months of negotiations on measures concerning preferential rights under para. 3.1 and/or on arrangements concerning conservation measures under para. 3.2, any of the States may initiate the procedure for the settlement of disputes. Pending the settlement of disputes, the States concerned shall adopt interim measures. Such interim measures shall in no way prejudice the respective positions of any States concerned with respect to the dispute in question.

- (a) In cases where the limitation of catch is disputed, each State in dispute shall take necessary measures to ensure that its catch of the stock concerned will not exceed on an annual basis its average annual catch of the preceding [five] year period.
- (b) In cases where some other factors are in dispute, e.g. fishing grounds, fishing gear or fishing seasons, in connection with measures to implement the preferential right of a coastal State, or with arrangements concerning conservation measures, the other States concerned shall adopt the latest proposals of the coastal State with respect to the matter in dispute. However, the other States shall be exempted from such obligation if the adoption of the proposal of the coastal State would seriously affect either its catch permitted under sub-para. (a) above, or its catch of some other stock not related to the preferential right of a coastal State which it is substantially exploiting. In such a case, those other States shall take all possible measures which they consider appropriate for the protection of the coastal fisheries concerned.
- (c) Any of the parties to the dispute may request the special Commission to decide on provisional measures regarding the matter in dispute.
- (d) Each State shall inform the special Commission established in accordance with para. 6.2 as well as all other States concerned of the specific interim measures it has taken in accordance with any of the preceding provisions.

6.2 Procedure for disputes settlement (special Commission)

Any dispute which may arise between States under the present regime shall be referred by any of the States concerned to a special Commission of five members in accordance with the following procedure, unless the parties concerned agree to settle the dispute by some other method provided for in Article 33 of the Charter of the United Nations.

- (a) Not more than two members may be named from among nationals of the parties, one each from among nationals of the coastal and the non-coastal State respectively.
- (b) Decisions of the special Commission shall be by majority vote and shall be binding upon the parties.
- (c) The special Commission shall render its decision within a period of six months from the time it is constituted.
- (d) Notwithstanding the interim measures taken by the parties under para. 6.1, the special Commission may, at the request of any of the parties or at its own initiative, decide on provisional measures to be applied if the Commission deems it necessary. The Commission shall render its final decision within a further period of six months from its decision on such provisional measures.

SC.II/L.50

Pakistan: breadth of the territorial sea and
boundaries of the exclusive economic zone

SC.II/L.23

Malta: Preliminary draft articles on the delimitation of coastal State
jurisdiction in ocean space and on the rights and obligations of coastal
States in the area under their jurisdiction

Article 86

Disagreements between coastal States or between the international ocean space institutions and a coastal State relating to matters contained in articles 83 and 85 shall be submitted to the International Maritime Court for binding adjudication.

Article 87

Every State shall take the necessary legislative measures to provide that violations of programmes of conservation of living resources adopted by the coastal State, or jointly by the coastal State and the international ocean space institutions, by vessels flying its flag or persons subject to its jurisdiction shall be a punishable offence.

SC.II/L.59 and Corr.1

Netherlands: proposal concerning an intermediate zone

Article 6: Negotiations between advantaged and disadvantaged states

1. Any disadvantaged state is entitled to enter into negotiations with any advantaged state, within groups of States to be determined by the competent international authority, in order to determine by agreement its share for the purpose of the application of article 5 or 4.

Notification shall be made to the competent international authority of any such negotiations having been entered into and of any agreement reached. [The competent international authority shall have the power once in 20 years to revise its determination of groups of States].

2. If agreement is not reached within three years after negotiations have commenced, the competent international authority shall be requested to make recommendations to the Contracting Parties concerned.

If agreement is not reached within one year after such recommendations are made, the determination recommended by the authority shall take effect unless either Party, within 90 days thereafter, brings the matter before the Tribunal.

SC.II/L.41

Madagascar and Zambia: draft articles
on the proposed economic zone

SC.II/L.24

Uruguay: draft treaty
articles on the
territorial sea

SC.11/L.9

United States of America: revised draft Fisheries article

IX. DISPUTES SETTLEMENT

Any dispute which may arise between States under this article shall, at the request of any of the parties to the dispute, be submitted to a special commission of five members unless the parties agree to seek a solution by another method of peaceful settlement, as provided for in Article 33 of the Charter of the United Nations. The commission shall proceed in accordance with the following provisions.

A. The members of the commission, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within two months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon request of any State party to the dispute, be named by the Secretary General of the United Nations, within a further two-month period, in consultation with the States involved and with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well-qualified persons being nationals of States not involved in the dispute and specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled. Any vacancy arising after the original appointment shall be filled in the same manner as provided for the initial selection.

B. Any State party to proceedings under these articles shall have the right to name one of the nationals to sit with the special commission, with the right to participate fully in the proceedings on the same footing as a member of the commission but without the right to vote or to take part in the writing of the commission's decision.

C. The commission shall determine its own procedure, assuring each party to the proceedings a full opportunity to be heard and to present its case. It shall also determine how the costs and expenses shall be divided between the parties to the dispute failing agreement by the parties on this matter.

D. Pending the final award by the special commission, measures in dispute relating to conservation shall be applied; the commission may decide whether and to what extent other measures shall be applied pending its final award.

E. The special commission shall render its decision, which shall be binding upon the parties, within a period of five months from the time it is appointed unless it decides, in the case of necessity to extend the time limit for a period not exceeding two months.

F. The special commission shall, in reaching its decision, adhere to this article and to any agreements between the disputing parties implementing this article.

SC.11/L.6

Draft article on fishing (basic provisions and explanatory note)
submitted by the Union of Soviet Socialist Republics

7. Disputes between States on matters connected with the application of the provisions of this article may, at the request of one of the parties to the dispute, be settled by arbitration unless the parties agree to settle it by another means of pacific settlement provided for in Article 33 of the United Nations Charter.

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9. OTHER ACTIVITIES

SC.II/L.11

Working paper submitted by Australia and New Zealand

SC.II/L.36

Working paper submitted by the delegations of Australia and Norway containing certain basic principles on an economic zone and on delimitation

14. It shall be the responsibility of the coastal State to ensure that fishing operations in the (fishery zone shall) be conducted with reasonable regard for other activities in the marine environment.

Other activities shall be conducted with reasonable regard for fishing operations carried out within the zone.

(Comment: In particular, damage to fishing gear should be avoided. It would be desirable that any disputes concerning the accommodation of competing uses within the zone be settled by compulsory settlement procedures, unless some form of settlement is agreed upon by the parties within a reasonable period).

SC.II/L.39

Argentina, Austria, Belgium, Bolivia, Brazil and Denmark:
draft articles on resource jurisdiction of coastal States
based on territorial sea

SC.II/L.40 and Corr.1-3

Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia,
Malagasy, Mauritius, Senegal, Sierra Leone, Somalia,
Togo, Tunisia and United Republic of Tanzania: draft
articles on exclusive economic zone

SC.II/L.37 and Corr.1

Argentina: draft articles

Article V

Each State shall ensure that any exploration or exploitation activity within its economic zone is carried out exclusively for peaceful purposes and in such a manner as not to interfere unduly with the legitimate interests of other States in the region or those of the international community.

SC.I/L.25

Brazil: draft articles considered basic principles on the question of the maximum breadth of the territorial sea and other modalities or combinations of legal regimes of coastal State sovereignty, jurisdiction or specialized competence

SC.II/L.28

Canada, India, Kenya, Madagascar, Senegal and Sri Lanka: draft articles on fisheries

Article 7

No State exercising foreign domination or control over a territory shall be entitled to establish an exclusive fishery zone or to enjoy any other right or privilege referred to in these articles with respect to such territory.

Article 12

All fishing activities in the exclusive fishery zone and the rest of the sea shall be conducted with due regard to the interests of the other States in the legitimate uses of the sea. In the exercise of their rights, the other States shall not interfere with fishing activities in the exclusive fishery zone.

Article 14

(Final clauses, etc.)

SC.II/L.34

Working paper submitted by the Chinese delegation: sea area within the limits of national jurisdiction

SC.II/L.45

Working paper submitted by the Chinese delegation: general principles for the international sea area

SC.II/L.21

Colombia, Mexico and Venezuela: draft articles of treaty

(3) Uses of the international sea area shall not prejudice the legitimate interests of other States and the common interests of all States.

SC.II/L.12

Transmits for a review of fisheries on the high seas.
Submitted by JAMA

COAST GUARDIANSHIP

7.1 Cooperation with Developing States

For the purpose of promoting the development of fishing industries and the domestic consumption and exports of fishery products of developing States, including land-locked States, developed non-coastal States shall co-operate with developing States with every possible means in such fields as survey of fishery resources, expansion of fishing capacity, construction of storage and processing facilities and improvements in marketing systems.

SC.II/L.27 and Corr.1 and 2

Draft articles for inclusion in a convention on the law of the sea, working paper submitted by the International Commission on the Law of the Sea

SC.II/L.54

Annex. Transmits for a review of fisheries in national and international waters in coastal areas

SC.II/L.75

Annex. Draft articles on national fisheries for landlocked States

UC.II/1.5'

Pakistan: breadth of the territorial sea and
boundaries of the exclusive economic zone

SC.II/L.41

Ukraine and Zambia: draft articles on the proposed economic zone

SC.II/L.24

Uruguay: draft treaty articles on the territorial sea

5. The provisions of the preceding paragraphs of this article shall not affect the freedom of navigation, overflight, and the laying of submarine cables and pipelines referred to in article ... which shall be applicable in the regional or subregional zones.

INTERNATIONAL AREA

The area beyond regional or subregional economic zones shall be known as the international area.

SC.11/L.9

United States of America revised draft Fisheries article

SC.11/L.6

Draft article on Fisheries (basic provisions and explanatory note)
submitted by the Union of Soviet Socialist Republics

VII. TECHNICAL ASSISTANCE

An international register of independent fisheries experts shall be established and maintained by the Food and Agriculture Organization of the United Nations. Any developing State party to this convention requiring assistance may submit an appropriate number of such experts to serve as a fisheries management advisory group to that State.

(The Sub-Committee may wish, in accordance with paragraph 13 of General Assembly Resolution 2750 C (XXV), to invite the comments of the Director-General of the Food and Agriculture Organization of the United Nations on the ability of the Organization to assume such responsibilities.)

8

1. OTHER WISE

The exploitation of the living resources shall be conducted with reasonable regard for other activities in the marine environment.

IX. EXISTING CONVENTIONS

The provisions of this article may be applied to fisheries conventions and other international fisheries agreements already in force.

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